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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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J. DAVID SPURLOCK, D/B/A VANGUARD
PRODUCTIONS,

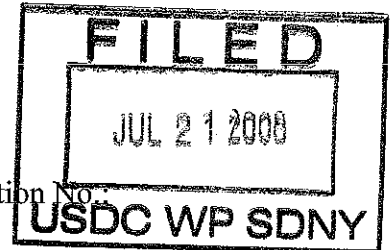
Plaintiff,

-against-

PERSEUS BOOKS, LLC and VANGUARD PRESS

Defendants.
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Civil Action No.



COMPLAINT

Jury Trial Demanded

Plaintiff, J. David Spurlock, d/b/a Vanguard Productions ("Vanguard"), by its attorneys, Grimes & Battersby, LLP, as and for its Complaint against Defendants, Perseus Books, LLC and Vanguard Press (collectively, "Defendants"), alleges as follows:

NATURE OF ACTION

1. This is an action in law and in equity for trademark infringement, false designation of origin, and unfair competition arising under the Lanham Act, 15 U.S.C. §§ 1051, *et seq.*, for violations of the Anticybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d), and for related claims of trademark infringement, unfair competition, dilution, injury to business reputation and deceptive trade practices under the laws of the State of New York.

2. As set forth below, Vanguard is a leading independent publisher of books, comic books, graphic novels, magazines, cards, art prints, reviews and other printed matter. Vanguard

owns valuable trademark rights in and to a series of marks containing the dominant term “Vanguard” for use in connection with these publications.

3. Defendant Perseus is a major trade publisher and owns one of the largest book distributors in the United States. Notwithstanding Vanguard’s prior protestations, Defendant Perseus has blatantly and willfully trampled on Vanguard’s trademark rights by establishing Defendant Vanguard Press as a subsidiary, introducing a book publishing imprint using the name “Vanguard Press,” and publishing books using the designation “Vanguard Press.”

4. By virtue of Defendants’ dominant position in the industry relative to Vanguard and Defendants’ significant marketing budget, Defendants’ “Vanguard Press” mark has begun to saturate the market and overwhelm Vanguard’s “Vanguard”-composite trademarks in the marketplace. Members of the relevant trade have already expressed a mistaken belief that Vanguard’s publications are in fact Defendants’, or that the two companies are somehow related. As a result, Vanguard is quickly losing the value of its trademarks, its product identity, and control over its goodwill and reputation. Accordingly, the harm suffered by Vanguard as a result of Defendants’ infringement and unfair competition is irreparable, and Defendants’ wrongful activities will continue unless enjoined by the Court.

PARTIES

5. Plaintiff J. David Spurlock is a New Jersey resident d/b/a Vanguard Productions, with a principal place of business at 575 Prospect Street, Lakewood, New Jersey and offices at 186 Center Street, Clinton, New Jersey.

6. Upon information and belief, Defendant Perseus Books, LLC (“Perseus”) is a Delaware limited liability company with its principal place of business at 387 Park Avenue South, New York, New York.

7. Upon information and belief, Defendant Vanguard Press ("Vanguard Press") is a subsidiary of Defendant Perseus and has offices at 387 Park Avenue South, New York, New York.

JURISDICTION & VENUE

8. The Court has jurisdiction over the subject matter of this action under Section 39 of the Lanham Act, 15 U.S.C. § 1121, and under 28 U.S.C. §§ 1331, 1332 and 1338(a) and (b). The Court has supplemental jurisdiction over the state law claims under 28 U.S.C. §§ 1338(b) and 1367(a).

9. The Court has personal jurisdiction over Defendants by virtue of the fact that, upon information and belief, Defendants (a) are doing business in the State; (b) have transacted business within the State of New York; (c) have infringed Plaintiff's trademarks within the State and (d) have infringed Plaintiff's trademarks without the State causing injury to Plaintiff's property within the State.

10. Venue is proper under 28 U.S.C. §§ 1391 (b) and (c) because Defendant does business in, has substantial contacts with and/or may be found in the Southern District of New York, and a substantial portion of the events at issue have arisen and will arise in this judicial district.

FACTS COMMON TO ALL COUNTS

Vanguard's Valuable "VANGUARD" Trademarks

11. Vanguard is a leading independent publisher of books, comic books, graphic novels, magazines, cards, art prints, reviews and other printed matter. Vanguard's customers are book distributors, book retailers and the general public.

12. Since 1990, Vanguard has made continuous and widespread use in commerce of trademarks featuring the term "Vanguard" in connection with printed publications, namely, books, comic books, graphic novels, magazines, cards, art prints, reviews and other printed matter. Specifically, Vanguard owns the following registered and unregistered trademarks, without limitation:

(a) U.S. Trademark Registration No. 3,429,227 for the trademark "VANGUARD PRODUCTIONS" for "publishing of books, magazines; publishing and distribution of books, reviews and other printed matter" in Class 41 on the Principal Register. (A copy of Vanguard's trademark registration certificate for the mark "VANGUARD PRODUCTIONS" is attached to this Complaint as Exhibit A and incorporated herein by reference.)

(b) the unregistered trademark "VANGUARD PRESS" for printed publications, namely, books, comic books, graphic novels, magazines, cards, art prints, reviews and other printed matter;

(c) the unregistered trademark "VANGUARD" for printed publications, namely, books magazines, comic books, graphic novels, cards, art prints, reviews and other printed matter;

(d) the unregistered trademark "VANGUARD PUBLISHING" for printed publications, namely, books, comic books, graphic novels, magazines, cards, art prints, reviews and other printed matter;

(e) the unregistered trademark "VANGUARD MAGAZINE" for printed publications, namely, books, comic books, graphic novels, magazines, cards, art prints, reviews and other printed matter;

(f) the unregistered trademark "VANGUARD COMICS" for printed publications, namely, books, comic books, graphic novels, magazines, cards, art prints, reviews and other printed matter;

(g) the unregistered trademark "VANGUARD STUDIO" for printed publications, namely, books, comic books, graphic novels, magazines, cards, art prints, reviews and other printed matter;

These trademarks are hereinafter referred to collectively as the "VANGUARD Trademarks."

13. The VANGUARD Trademarks are inherently distinctive to the public and the trade with respect to publishing services and publications. The VANGUARD Trademarks serve primarily as designators of origin of products and services emanating from or sponsored by Vanguard. In particular, members of the trade, including Defendant Perseus's own subsidiary, commonly refer to Vanguard using the "VANGUARD PRESS" trademark, as follows:

(a) Upon information and belief, in or about October 2006, *Illustration Magazine* reviewed two of Vanguard's books and referred to Vanguard using the "VANGUARD PRESS" trademark. (A true and correct copy of a page from *Illustration Magazine*, wherein Vanguard is referred to using the "VANGUARD PRESS" trademark, is attached to this Complaint as Exhibit B and incorporated herein by reference.)

(b) Upon information and belief, on or about June 30, 2008, Publishers Group West, one of the largest book distributors in the United States, sought to distribute Vanguard's publications and sent Vanguard a package containing its catalogues for review. Publishers Group West addressed the package to "VANGUARD PRESS" referring to Vanguard. Upon information and belief, Publishers Group West is owned by Defendant Perseus. (A true and correct copy of a package sent by Publishers Group West and affixed with a mailing label

addressed to Vanguard using the “VANGUARD PRESS” trademark is attached to this Complaint as Exhibit C and incorporated herein by reference.)

14. A strong association exists between Vanguard’s VANGUARD Trademarks and book publishing. Vanguard has deliberately and consistently reinforced such association as follows:

(a) Since 1990, Vanguard has spent substantial amounts of money on national advertising campaigns using the VANGUARD Trademarks;

(b) The VANGUARD Trademarks are prominently featured on all of Vanguard’s publications.

15. Since the inception of their use, the VANGUARD Trademarks have been used by Vanguard only in connection with the finest publications. The quality of Vanguard’s publications has been recognized as follows:

(a) Several of Vanguard’s publications have received critical acclaim from *The New York Times*, *Publishers Weekly*, *Library Journal*, *Entertainment Weekly*, *Time Out New York* and *The Village Voice*;

(b) Several of Vanguard’s publications have been nominated for prestigious awards, such as the Eisner Award, the IPPY Award, and the Rondo Award.

16. In addition, Vanguard has made extensive use of the VANGUARD Trademarks in connection with the Internet since 1994. Vanguard uses its VANGUARD Trademarks on its Internet web site at www.vanguardproductions.net. Vanguard has owned the domain name “vanguardproductions.net” since 2006. (A true and correct printout from GoDaddy’s WHOIS database demonstrating Vanguard’s ownership of “vanguardproductions.net” is attached hereto as Exhibit D and incorporated herein by reference.)

17. As a result of the widespread promotion, marketing, advertising, use and display of the VANGUARD Trademarks over the past eighteen years, (a) the public and the trade have come to recognize that the marks refer to high quality publications emanating from a single source of origin, and (b) said marks have gained secondary meaning and extensive goodwill.

Defendants' Acts of Infringement, False Designation of Origin, Unfair Competition, Dilution, Injury to Business Reputation and Deceptive Trade Practices

18. In or about November 2006, Vanguard became aware that Defendant Perseus intended to adopt and commence use of the name "Vanguard Press" in connection with a book publishing imprint.

19. On or about November 20, 2006, Vanguard, acting through its prior counsel, sent a cease and desist letter to Defendant Perseus, in which Vanguard demanded, *inter alia*, that Defendant Perseus: cease all use of the "Vanguard Press" mark, or any other mark containing or comprising the term "Vanguard," with respect to any publications; cease all active promotion of the "Vanguard Press" name as the name of a publishing unit and/or imprint; select a new imprint name that does not contain the term "Vanguard"; provide all distributors and retailers with updated product information and new or revised promotional materials; and revise all websites owned or controlled by Defendant Perseus to remove all references to "Vanguard Press" and replace such name with the newly selected name of the imprint. (A true and correct copy of the November 20, 2006 letter is attached to this Complaint as Exhibit E and incorporated herein by reference.)

20. Despite Defendant Perseus' actual knowledge of Vanguard's prior and superior trademark rights, as well as Vanguard's clear and unambiguous objections to such infringing activities, upon information and belief, Defendant Perseus launched the Vanguard Press imprint

and commenced publication of books bearing the designation "Vanguard Press" in or about March 2007.

21. On or about March 19, 2007, Vanguard, acting through its prior counsel, sent another a cease and desist letter to Defendant Perseus' counsel, in which Vanguard demanded, *inter alia*, that Defendant Perseus: cease all use of the "Vanguard Press" mark, or any other mark containing or comprising the term "Vanguard," with respect to any publications or the advertisement and promotion thereof; cease all use of the "Vanguard Press" name as the name of a publishing unit and/or imprint; select a new imprint name that does not contain the term "Vanguard"; provide all distributors and retailers with updated product information and new or revised promotional materials; and revise all websites owned or controlled by Defendant Perseus to remove all references to "Vanguard Press" and replace such name with the newly selected name of the imprint. (A true and correct copy of the March 19, 2007 letter is attached to this Complaint as Exhibit F and incorporated herein by reference.)

22. On or about May 31, 2007, Vanguard, acting through its prior counsel, sent a letter to Defendant Perseus inviting Defendant Perseus to submit a proposal for the Defendants' purchase of Vanguard's VANGUARD Trademarks or the possible grounds for the parties' co-existence. (A true and correct copy of the May 31, 2007 letter is attached to this Complaint as Exhibit G and incorporated herein by reference.)

23. On or about October 17, 2007, Vanguard, acting through its present counsel, sent a fourth and final letter to Defendant Perseus' counsel inviting Defendant Perseus to initiate settlement discussions. (A true and correct copy of the October 17, 2007 letter is attached to this Complaint as Exhibit H and incorporated herein by reference.) Settlement discussions began in October 2007 and continued through May 2008. As part of such settlement discussions,

Vanguard's counsel advised Defendants' counsel that Vanguard had evidence of actual reverse confusion. Ultimately, the parties were unable to reach an agreement to resolve the trademark dispute.

24. Upon information and belief, Defendant Vanguard Press has published twenty-three (23) books to date. The "Vanguard Press" designation is displayed on the covers of all books published by Defendants' "Vanguard Press" imprint.

25. Defendants' "Vanguard Press" name is identical to Vanguard's "VANGUARD PRESS" trademark and is confusingly similar to Vanguard's other registered and unregistered VANGUARD Trademarks.

26. Upon information and belief, the parties' books are sold in the same channels of trade to the same class of purchasers and bear a similar cover price. The parties attend the same trade shows and share many of the same customers.

27. Upon information and belief, Defendants maintain an Internet web site at the URL "www.perseusbooks.com", at which the designation "Vanguard Press" is featured. This web site is accessible to residents of New York State and this District. (A true and correct print out from Network Solutions' WHOIS database for www.perseusbooks.com is attached to this Complaint as Exhibit I and incorporated herein by reference.)

28. Upon information and belief, Defendants maintain an Internet web site at the URL "www.vanguardpressbooks.com", at which the designation "Vanguard Press" is featured. This web site is accessible to residents of New York State and this District. (A true and correct print out from Network Solutions' WHOIS database for www.vanguardpressbooks.com is attached to this Complaint as Exhibit J and incorporated herein by reference.)

29. Upon information and belief, Defendants have registered the URL “www.vanguardpress.net”, which resolves to its “www.vanguardpressbooks.com” Internet web site. (A true and correct print out from Network Solutions’ WHOIS database for www.vanguardpress.net is attached to this Complaint as Exhibit K and incorporated herein by reference.)

30. Defendants’ “www.vanguardpressbooks.com” and “www.vanguardpress.net” domain names are confusingly similar to Vanguard’s “VANGUARD PRESS” trademark and Vanguard’s other registered and unregistered VANGUARD Trademarks.

31. Through its dominant position in the industry relative to Vanguard and Defendants’ significant marketing budget, Defendants’ “Vanguard Press” mark has begun to saturate the market and overwhelm Vanguard’s VANGUARD Trademarks in the marketplace.

32. The continued sale of Defendants’ books bearing the “Vanguard Press” mark is likely to cause reverse confusion, mistake and/or deception as to the source of origin of the products in that the public, the trade and others are likely to believe mistakenly that Vanguard’s books are in fact Defendants’ books; and/or that Defendants, the junior user, has somehow sponsored or approved of Vanguard, the senior user of the VANGUARD Trademarks.

33. This confusion is not merely theoretical. It has already occurred and continues to occur, as follows:

(a) A review of one of Defendant Vanguard Press’ books was mistakenly sent to Vanguard on or about April 9, 2007. (A true and correct copy of the book review is attached to this Complaint as Exhibit L and incorporated herein by reference.);

(b) On or about May 31, 2007, Mr. Spurlock attended the Book Expo America book publishing trade show in New York, New York. While registering for admission,

Mr. Spurlock was mistakenly given a badge meant for Defendant Vanguard Press. (A true and correct copy of the badge is attached to this Complaint as Exhibit M and incorporated herein by reference.);

34. Defendants' continued sale of unauthorized, infringing products is depriving Vanguard of the ability to control the use of its valuable intellectual property. Vanguard has lost and will continue to lose its brand identity, product identity, company identity and control over its goodwill and reputation.

35. Moreover, Vanguard is justifiably concerned that its company and its VANGUARD Trademarks will be tarnished by the mistaken association with Defendant Vanguard Press because of Defendant's conduct, as follows:

(a) Upon information and belief, in or about May 2007, Defendant Vanguard Press published a 30th-anniversary edition of "Roots" by Alex Haley which included known plagiarized passages that were not identified by the publisher. Defendant's conduct generated negative press. (A true and correct copy of a June 8, 2007 article by Philip Nobile published by *New York Magazine* is attached to this Complaint as Exhibit N and incorporated herein by reference.);

(b) Upon information and belief, in or about September 2007, Defendant Vanguard Press published a collection of newspaper columns by bestselling author John Grogan without the author's consent and over his objections. Defendant's conduct generated negative press, wherein Mr. Grogan is quoted as speculating that, "[t]his has nothing to do with wanting to publish my columns and everything to do with [Vanguard and the Inquirer] getting a piece of this very large audience I have with 'Marley & Me,'" a book which is published by a rival publisher. (A true and correct copy of a June 8, 2007 article by Rachel Deahl published by

Publishers Weekly is attached to this Complaint as Exhibit O and incorporated herein by reference.)

36. Upon information and belief, at the time Defendants acted as aforesaid, they had knowledge that:

- (a) Vanguard owned trademark rights in the VANGUARD Trademarks; and
- (b) the owner of trademark rights in the VANGAURD Trademarks had not authorized their use on or in connection with Defendants' publications or book publishing imprint.

37. Upon information and belief, even after receiving Vanguard's cease and desist letters, Defendants have continued to use the designation "Vanguard Press" as the name of a book publishing imprint and in connection with the books published by this imprint, as alleged more fully above.

38. Upon information and belief, Defendants are continuing and intend to continue to use the designation "Vanguard Press" as the name of a book publishing imprint and in connection with the books published by this imprint.

39. Upon information and belief, Defendants continue in their course of infringing conduct with full knowledge that:

- (a) Vanguard owns trademark rights in the VANGUARD Trademarks;
- (b) the owner of trademark rights in the VANGUARD Trademarks has not authorized their use on or in connection with Defendants' publications or book publishing imprint; and
- (c) Defendants' conduct has caused actual reverse confusion.

40. Defendants' aforementioned acts are willful and intentional.

CLAIMS FOR RELIEF

COUNT ONE

INFRINGEMENT OF FEDERALLY REGISTERED TRADEMARK

41. Plaintiff repeats and re-alleges Paragraphs 1 through 40 as if fully set forth herein.

42. This is a claim for infringement of Vanguard's federally registered "VANGUARD PRODUCTIONS" trademark arising under Section 32 of the Lanham Act, 15 U.S.C. §1114.

43. Defendants' use of the designation "Vanguard Press," is likely to cause reverse confusion, cause mistake and/or cause deception as to the source of origin of their goods and services in that the public, the trade and others are likely to believe that Plaintiff's goods and services are provided by, sponsored by, approved by, licensed by, affiliated with or in some other way are legitimately connected to Defendants.

44. By their actions, Defendants have deliberately sought to deceive the public as to the origin and sponsorship of the book publishing imprint designated "Vanguard Press" and the books published by this imprint which carry the "Vanguard Press" designation on their covers.

45. Defendants' use of the designation "Vanguard Press" in connection with Defendants' goods and services has been made notwithstanding Plaintiff's well-known and prior established rights in the "VANGUARD PRODUCTIONS" trademark and with both actual and constructive notice of Plaintiff's federal registration rights under 15 U.S.C. § 1072.

46. Plaintiff has no control over the nature or quality of Defendants' goods or services or any other aspect of the business conduct of Defendants. Plaintiff prides itself on its outstanding reputation for providing only the finest quality publications, and consumers have come to expect such goods and services from Plaintiff. Defendants' goods and services and

business conduct are likely to reflect adversely on Plaintiff and its federally registered "VANGUARD PRODUCTIONS" trademark, thus hampering efforts by Plaintiff to continue to protect its reputation and to promote genuine goods and services under the "VANGUARD PRODUCTIONS" trademark.

47. Defendants' use of the designation "Vanguard Press" constitutes willful infringement of Plaintiff's federally registered "VANGUARD PRODUCTIONS" trademark, to the substantial and irreparable injury of the public and of Plaintiff's business reputation and goodwill.

48. Defendants' wrongful acts have caused and, unless restrained by this Court, will continue to cause serious irreparable injury and damage to Plaintiff and to the goodwill associated with Plaintiff's registered marks. Plaintiff has no adequate remedy at law.

COUNT TWO

FEDERAL TRADEMARK INFRINGEMENT, FALSE DESIGNATION OF ORIGIN AND UNFAIR COMPETITION

49. Plaintiff repeats and re-alleges Paragraphs 1 through 48 as if fully set forth herein.

50. This is a claim for trademark infringement, false designation of origin and unfair competition arising under Section 43(a) of the Lanham Act, 15 U.S.C. §1125(a), as follows:

(a) Defendants' unauthorized use of Plaintiff's VANGUARD Trademarks for the name of a book publishing imprint and in connection with the books published by this imprint constitutes willful trademark infringement, false designation of origin and unfair competition to the substantial and irreparable injury of the Plaintiff and of Plaintiff's business reputation and goodwill.

(b) Defendants' unauthorized use of Plaintiff's VANGUARD Trademarks on the Internet constitutes willful trademark infringement, false designation of origin and unfair

competition to the substantial and irreparable injury of the Plaintiff and of Plaintiff's business reputation and goodwill.

51. Defendants' wrongful acts have caused and, unless restrained by this Court, will continue to cause serious irreparable injury and damage to Plaintiff and to the goodwill associated with Plaintiff's registered marks. Plaintiff has no adequate remedy at law.

COUNT THREE

CYBERSQUATTING

52. Plaintiff repeats and re-alleges Paragraphs 1 through 51 though fully set forth herein.

53. Upon information and belief, Defendants had a bad faith intent to profit from the registration and use of the Internet domain names "www.vanguardpressbooks.com" and "www.vanguardpress.net" by creating an association with Plaintiff's famous VANGUARD Trademarks as to source or sponsorship.

54. The second-level domain name portions of the "www.vanguardpressbooks.com" and "www.vanguardpress.net" Internet domain names are confusingly similar to Plaintiff's VANGUARD Trademarks.

55. Defendants' aforesaid acts are in violation of the Anticybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d).

COUNT FOUR

COMMON LAW TRADEMARK INFRINGEMENT AND UNFAIR COMPETITION

56. Plaintiff repeats and realleges Paragraphs 1 through 55 as if fully set forth herein.

57. Defendants' unauthorized use of the VANGUARD Trademarks is likely to cause reverse confusion, mistake and/or deception to the public and the trade as to the origin, source,

sponsorship or quality of Plaintiff's goods and services in that the public and the trade will believe that Plaintiff's goods and services originate and/or are otherwise authorized by Defendants.

58. Defendants' aforementioned acts were done with full knowledge of Plaintiff's prior rights in the VANGUARD Trademarks and with the full knowledge of the substantial reputation and goodwill associated with Plaintiff. Defendants have proceeded without a license or authority to use the VANGUARD Trademarks and/or to create an association with Vanguard's VANGUARD Trademarks. By appropriating Vanguard's eighteen (18) years of goodwill in the VANGUARD Trademarks, Defendants will unjustly enrich themselves and cause damage to Plaintiff, as follows:

(a) Defendants' use of the designation "Vanguard Press" on or in connection with the name of a book publishing imprint and the books published thereby constitutes unauthorized use of Plaintiff's VANGUARD Trademarks, other symbols of origin and indicia of Plaintiff, and is likely to cause consumers to mistakenly believe that books published with the indicia "Vanguard Press" are affiliated or associated with Plaintiff and/or Plaintiff's VANGUARD Trademarks, or that Plaintiff's books are affiliated or associated with Defendants.

(b) Defendants' use of the designation "Vanguard Press" on or in connection with the Internet constitutes unauthorized use of Plaintiff's VANGUARD Trademarks, other symbols of origin and indicia of Plaintiff, and is likely to cause consumers to mistakenly believe that the books published with the indicia "Vanguard Press" are affiliated or associated with Plaintiff or Plaintiff's VANGUARD Trademarks, or that Plaintiff's books are affiliated with Defendants.

59. Defendants' conduct is blatant, willful and intentional and is undertaken with the full knowledge of Plaintiff's prior, superior rights in its VANGUARD Trademarks.

60. Defendants' conduct constitutes common law trademark infringement and unfair competition with Plaintiff which is causing immediate and irreparable harm to Plaintiff and to Plaintiff's goodwill. Plaintiff will continue to be damaged and the public will continue to be deceived unless Defendants are enjoined by this Court. Plaintiff has no adequate remedy at law.

COUNT FIVE

TRADEMARK DILUTION AND INJURY TO BUSINESS REPUTATION UNDER NEW YORK LAW N.Y.G.B.L. §360-L

61. Plaintiff repeats and realleges Paragraphs 1 through 60 as if fully set forth herein.

62. Defendants have injured and will continue to injure Plaintiff's business reputation and create a blurring and tarnishment of Plaintiff's VANGUARD Trademarks where Plaintiff has no control over Defendants. Accordingly, Defendants are diluting and are likely to continue diluting Plaintiff's distinctive VANGUARD Trademarks, as follows:

(a) Defendants' unauthorized use of Plaintiff's VANGUARD Trademarks is diluting and is likely to continue to dilute Plaintiff's valuable and distinctive VANGUARD Trademarks by blurring the distinctiveness thereof and tarnishing Plaintiff's VANGUARD Trademarks. Such unauthorized usage is likely to cause injury to Plaintiff's business reputation and/or dilute the distinctive quality of Plaintiff's VANGUARD Trademarks in violation of Section 360-L of the General Business Law of the State of New York.

(b) Defendants' unauthorized use of Plaintiff's VANGUARD Trademarks on the Internet is diluting and is likely to continue to dilute Plaintiff's valuable and distinctive VANGUARD Trademarks by blurring the distinctiveness thereof and tarnishing Plaintiff's VANGUARD Trademarks. Such unauthorized usage is likely to cause injury to Plaintiff's

business reputation and/or dilute the distinctive quality of Plaintiff's VANGUARD Trademarks in violation of Section 360-L of the General Business Law of the State of New York.

63. By reason of the foregoing, Plaintiff is being irreparably harmed and will continue to be irreparably harmed unless Defendants are enjoined from using Plaintiff's VANGUARD Trademarks, which use is diluting the distinctive quality of Plaintiff's VANGUARD Trademarks.

COUNT SIX

DECEPTIVE TRADE PRACTICES UNDER NEW YORK LAW N.Y.G.B.L. §349-350

64. Plaintiff repeats and realleges Paragraphs 1 through 63 as if fully set forth herein.

65. Defendants' acts as above alleged are misleading in a material respect, and Plaintiff has suffered injury as a result.

66. Defendants' aforesaid acts constitute deceptive trade practices in violation of Section 349-350 of the General Business Law of the State of New York.

WHEREFORE, Plaintiff demands judgment as follows:

1. Awarding Plaintiff monetary relief on its Lanham Act claims, including Plaintiff's actual damages, Defendants' profits, Plaintiff's lost profits, statutory damages and treble damages as permitted under 15 U.S.C. §1117 arising out of Defendants' acts of willful trademark infringement, false designation of origin, unfair competition and cyberquatting, in the amount of One Million Dollars (\$1,000,000.00) or such greater amount as determined to be appropriate at trial;

2. Preliminarily and permanently enjoining Defendants, their employees, agents, licensees, attorneys, successors, affiliates, subsidiaries and assigns, and all those in active concert and participation with any of them, including any entities controlled in whole or in part by

Defendants or any entities created by Defendants in the future, pursuant to 15 U.S.C. §1116 and NY GBL §360-1, from the following activities: (i) infringing Plaintiff's VANGUARD Trademarks; (ii) creating by any acts or devices, any impression that Defendants' goods or services have any association, connection or affiliation with Plaintiff or Plaintiff's VANGUARD Trademarks; (iii) competing unfairly with Plaintiff; (iv) diluting, blurring and/or tarnishing the distinctive quality of Plaintiff's VANGUARD Trademarks; and (v) exploiting Plaintiff's identity for Defendants' commercial benefit without authorization, and specifically from:

(a) imitating, copying or making unauthorized use of the VANGUARD Trademarks;

(b) directly or indirectly manufacturing, producing, distributing, selling, offering for sale, advertising, marketing, promoting or displaying any product or service bearing any unauthorized reproduction, copy or colorable imitation of the VANGUARD Trademarks;

(c) using any unauthorized colorable imitation of the VANGUARD Trademarks in connection with the manufacture, distribution, production, sale, offer for sale, advertising, marketing, promotion or display of any product or service;

(d) engaging in any other activity constituting unfair competition with Vanguard, or constituting an infringement of any of the VANGUARD Trademarks or of Vanguard's rights therein, or their right to exploit such trademarks; and

(e) engaging in any other conduct that is likely to cause confusion or to cause mistake or to deceive as to the source, affiliation, connection, or association of Vanguard's products or services with Defendants.

3. Directing that Defendants use their best efforts to recall from the trade, including any and all distributors, wholesalers, dealers, retailers and all other third parties, any and all

infringing products bearing the "Vanguard Press" mark and/or any and all products bearing any other mark that is confusingly similar to the VANGUARD Trademarks, along with any and all marketing, sales, advertising and promotional materials used in connection therewith and/or in the performance of Defendants' business;

4. Directing that Defendants use their best efforts to contact all online retailers currently listing any "Vanguard Press" publications or future publications and require such retailers to remove all references to "Vanguard Press" from all such product listings, including but not limited to, Amazon.com (including all country code variations thereof), BN.com, Buy.com, Walmart.com, BooksAMillion.com, BookSense.com, Powells.com, A1Books.com, GoHastings.com, and Indigo.ca;

5. Directing that Defendants relinquish all rights in the Internet domain names "www.vanguardpressbooks.com" and "www.vanguardpress.net" and transfer the Internet domain names to Plaintiff, pursuant to 15 U.S.C. §1125(d)(1)(C);

6. Directing that Defendants file with the Court and serve upon Plaintiff's counsel within thirty (30) days after entry of judgment a report in writing and under oath as provided in 15 U.S.C. §1116 setting forth in detail the manner and form in which Defendants have complied with the requirements of the foregoing injunction and orders;

7. Directing that Defendants deliver up to Plaintiff for destruction or other disposition, within thirty (30) days after entry of judgment, any and all infringing goods or services and any marketing, sales, advertising and promotional materials used in connection therewith, now or hereafter in their possession, custody or control as provided in 15 U.S.C. § 1118;

8. Directing that Defendants account for all gains, profits and advantages derived from their acts of trademark infringement, false designation of origin, unfair competition, cybersquatting, and for their other violations of law;

9. Awarding Plaintiff compensatory damages on its state law claims in the amount of Two Hundred Fifty Thousand Dollars (\$250,000.00) or such greater amount as determined to be appropriate at trial;

10. Awarding Plaintiff its attorneys' fees, costs and disbursements incurred herein in view of Defendants' intentional and willful infringement, pursuant to 15 U.S.C. §1117;


11. Awarding Plaintiff punitive and exemplary damages in the amount of One Million Dollars (\$1,000,000.00) or such greater amount as determined to be appropriate at trial on its state law claims for Defendants' willful and wanton violation of Plaintiff's rights;

12. Awarding Plaintiff pre-judgment and post-judgment interest to the maximum extent permitted by law; and

13. Granting to Plaintiff such other relief as the Court may deem just and proper.

Dated: July 21, 2008

GRIMES & BATTERSBY, LLP

By 
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New York, NY 10019
(914) 698-1305

488 Main Avenue
Norwalk, CT 06851
(203) 849-8300

Attorneys for Plaintiff J. David Spurlock,
d/b/a/ Vanguard Productions

Exhibit A

The United States of America

**CERTIFICATE OF REGISTRATION
PRINCIPAL REGISTER**

The Mark shown in this certificate has been registered in the United States Patent and Trademark Office to the named registrant.

The records of the United States Patent and Trademark Office show that an application for registration of the Mark shown in this Certificate was filed in the Office; that the application was examined and determined to be in compliance with the requirements of the law and with the regulations prescribed by the Director of the United States Patent and Trademark Office; and that the Applicant is entitled to registration of the Mark under the Trademark Act of 1946, as Amended.

A copy of the Mark and pertinent data from the application are part of this certificate.

To avoid CANCELLATION of the registration, the owner of the registration must submit a declaration of continued use or excusable non-use between the fifth and sixth years after the registration date. (See next page for more information.) Assuming such a declaration is properly filed, the registration will remain in force for ten (10) years, unless terminated by an order of the Commissioner for Trademarks or a federal court. (See next page for information on maintenance requirements for successive ten-year periods.)



Jon W. L. Dudas

Director of the United States Patent and Trademark Office

Int. Cl.: 41

Prior U.S. Cls.: 100, 101 and 107

Reg. No. 3,429,227

United States Patent and Trademark Office

Registered May 20, 2008

**SERVICE MARK
PRINCIPAL REGISTER**

VANGUARD PRODUCTIONS

SPURLOCK, J. DAVID (UNITED STATES INDIVIDUAL)
390 CAMPUS DRIVE
SOMERSET, NJ 08873

FOR: PUBLISHING OF BOOKS, MAGAZINES;
PUBLISHING AND DISTRIBUTION OF BOOKS,
REVIEWS AND OTHER PRINTED MATTER, IN
CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 10-1-1990; IN COMMERCE 10-1-1990.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

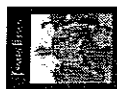
NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "PRODUCTIONS", APART FROM THE MARK AS SHOWN.

SER. NO. 77-036,201, FILED 11-3-2006.

ALLISON HOLTZ, EXAMINING ATTORNEY

Exhibit B

New and Notable:



JAMES BAMA: AMERICAN REALIST
BY BRIAN M. KANE
160 PAGES, FULL COLOR
\$34.95 HARDCOVER
\$74.95 DELUXE EDITION IN SUP-CASE WITH DVD
FLESH PUBLICATIONS, 2006

The illustration art of James Bama has now been collected into this impressive 160-page full-color hardbound edition. *James Bama: American Realist* is the first book to span his entire career, with examples of his magazine illustrations, paperback book covers, and advertising artwork. Chapters examine his work in pop culture, horror, science fiction, adventure and western genres, concluding with his most recent fine art endeavors.

During his career, Bama's art graced many memorable pop culture paperback book covers. Among his most notable works are the 62 cover paintings for Bantam's Doc Savage adventure series, all of which are contained within.

This volume features a detailed biography exploring his noteworthy and singular career. Insightful quotes by Bama accompany many pieces. In addition, testimonials by leading artists, writers, and historians are contained throughout.

Written and designed by Brian M. Kane in cooperation with Mr. Bama. Introduction by Harlan Ellison. Foreword by Len Leone. Over 260 illustrations are featured, of which more than 85 are from the original art. Over 30 personal photographs of family and modeling shoots are contained within. The deluxe hardbound edition is limited to 1000 signed and numbered copies, comes in a slipcase, and includes a professional quality one-hour long documentary film of the artist on DVD, produced and directed by filmmaker Paul Jilbert.



THE ART OF PLAYBOY'S ELDON DEDIN
BY ELDON DEDIN
220 PAGES, FULL COLOR
\$39.95 HARDCOVER
FANTAGRAPHICS, 2006

For over 45 years, Eldon Dedin has been one of *Playboy's* most recognizable full-page gag cartoonists. He created over 1200 cartoons for *Playboy* from 1959 to 2005. With a masterful watercolor technique that burlesques a broad range of subjects—from East and West Coast urban and suburban adult-hipster to classical Japanese erotic prints—Dedin's most personal cartoons rely on mythology and legend, evoking a bucolic sexually liberated paradise that leaves its reader lingering over the imagery long after the gag registers. *The Art of Playboy's Eldon Dedin* is the first retrospective collection of his work and gathers in one volume the most sophisticated, elegant—and funny—gag panels of the past six decades.

Dedin was named best magazine cartoonist by the National Cartoonists Society in 1958, 1961, 1964, and 1989.



THE FAMOUS MONSTER MOVIE ART OF BASIL GOGOS
EDITED BY KERRY GAMMILL AND J. DAVID SPURLOCK
160 PAGES, FULL COLOR
\$24.95 SOFTCOVER / \$39.95 HARDCOVER
VANGUARD PRESS, 2006

To many fans of classic horror movies, the name Basil Gogos is as familiar as that of Boris Karloff, Bela Lugosi or Vincent Price. Gogos' paintings are as iconic as his subjects. *The Famous Monster Movie Art of Basil Gogos* is a celebration of the career of the acknowledged master of film monster portrait art. This long-overdue retrospective features high-quality reproductions of many of his most famous paintings as well as many previously unpublished paintings and drawings of classic film creatures and actors. Gogos' early work in men's adventure magazine and paperback book art is examined as well as his works in movie posters and other areas. An in-depth career-spanning interview with the artist accompanies the illustrations and tributes by other artists and film professionals inspired by Gogos' powerful images. The book also features an introduction by rock star movie director and horror collector Rob Zombie.



CARTOON MODERN
BY AMID AMIDI
200 PAGES, FULL COLOR
\$40.00 SOFTCOVER
CHRONICLE BOOKS, 2006

Between the classic films of Walt Disney in the 1940s and the televised cartoon revolution of the 1960s was a critical period in the history of animation. Amid Amidi, of the influential *Animation Blast* magazine and Cartoonbrew blog, charts the evolution of the modern style in animation, which largely discarded the "lifelike" aesthetic for a more graphic and often abstract approach. Abundantly found in commercials, industrial and educational films, fair and expo infotainment, and more, this quickly popular cartoon modernism shared much with the painting and graphic design movements of the era. Showcasing hundreds of rare and forgotten sketches, model boards, cels, and film stills, *Cartoon Modern* is a thoroughly researched, eye-popping, and delightful account of a vital decade of animation design.



WALLY'S WORLD: THE BRILLIANT LIFE & TRAGIC DEATH OF WALLY WOOD
BY STEVE STANGER & J. DAVID SPURLOCK
INTRODUCTION BY PETER MAX
240 PAGES, COLOR AND B/W
\$49.95 HARDCOVER
VANGUARD PRESS, 2006

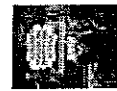
Wally's World opens Halloween night, 1981, in a seedy world of pornographers and drug addicts, with a mysterious death

by 44 magnum gunshot on the outskirts of Hollywood... This is no mystery club thriller but the true, dramatic, gut wrenching illustrated biography of cartoonist Wallace Wood. Wood rose to the pinnacle of the comic book field with a brilliant career as one of America's top humorists and MAD magazine's first star cartoonist. The artist also excelled as a cutting-edge science-fiction illustrator and mainstream regaler of daring superhero deeds. Wood was sought out to collaborate with pop-art maestro Peter Max; animated filmmaker Ralph Bakshi; Harry Harrison, the Nebula Award winning author of the Charlton Heston sci-fi thriller, *Soylent Green*; Marvel comics creators Stan Lee and Jack Kirby; and Pulitzer Prize winner Jules Feiffer. But the superstar of the illustrated page was haunted by more than his share of demons—demons that ultimately tore him from his creative peaks to die an early death on the outskirts of Hollywood.



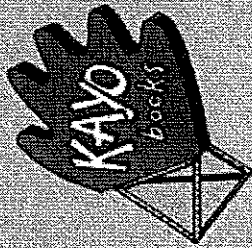
FRANKLIN BOOTH: AMERICAN ILLUSTRATOR
EDITED BY MANUEL AUAD
128 PAGES, B/W WITH COLOR PLATES
\$24.95 HARDCOVER
AUAD PUBLISHING, 2006

Franklin Booth is one of the most important and influential artists of the 19th and 20th centuries. Born in 1874, as an artistically-inclined youth he pored over illustrations in the popular magazines of the time, all of which used a wood-engraved print technique to reproduce drawings and publishing. While copying with a pen the fine lines created by this process, Booth developed his intricate "cross-hatching" style. Soon he was crafting distinctive artwork for ads, articles, poems and bookplates, and his work appeared regularly in such publications as *Cosmopolitan* and *Harpers*. A true master of the pen and brush, his style has been widely imitated but never equaled, and his remarkable talent continues to amaze. In this richly illustrated volume featuring much rarely-seen artwork, Eisner Award-winning editor Manuel Auad offers a glimpse into the breathtaking vision of this incredible American illustrator.



MODERN, HISTORICAL ADVENTURE NOVELS: A SURVEY, INDEX AND VALUE GUIDE
BY GARY LOVISI
142 PAGES, FULL COLOR
\$60.00 SOFTCOVER, SPIRAL BOUND
WWW.GRYPHONBOOKS.COM, 2006

This full-color spiral-bound book offers a survey, index and value guide to collectible historical adventure novels, and includes listings for all the key US and UK editions, hard cover and paperback. All masters of the genre are included: Bernard Cornwell, George MacDonald Fraser, Patrick O'Brian, Alexander Kent, Philip McCutchen, V.A. Stuart, Simon Scarrow, Allan Mallinson, Dudley Pope, James L. Nelson, Richard Woodman and dozens more. The book is illustrated with scores of book covers, with hundreds of collectible and rare book covers.



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The only bookstore of its kind in the country! Our entire store is filled with vintage books. We also carry original illustration and comic art.
814 Post Street, San Francisco, CA 94109
415-749-0554 Open Wed-Sun 11AM-6PM
WWW.KAYOBOOKS.COM
kayo@kayobooks.com

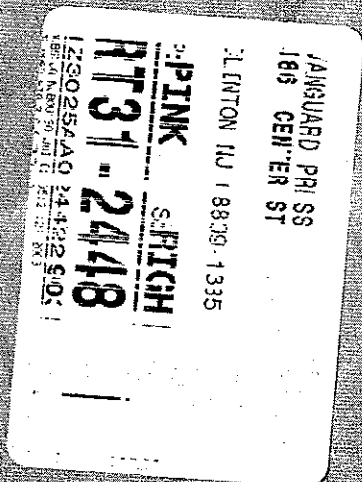
Did You Look?

We now have 100

paperback cover reproductions, many with the corresponding reference photos used by the artist. Along with our posters and giclees, we also offer 8 x 10 prints of the covers and photos. You can create your own custom portfolio! Greeting cards and T-shirts, too. For some of the finest in vintage art sold, please visit us at:
RAMSGUILESCOVERS.COM
1-800-66-CA-000



Exhibit C

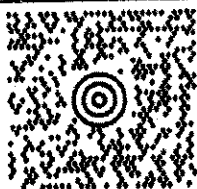


SHIPPING DEPT
 (510) 528-1444
 PUBLISHERS GROUP WEST
 1700 4TH ST
 BERKELEY CA 94710-1711

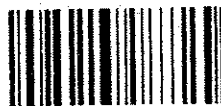
6 LBS

1 OF 1

SHIP TO:
 DAVID SPURLOCK
 VANGUARD PRESS
 SUITE
 186 CENTER STREET
 CLINTON NJ 08809



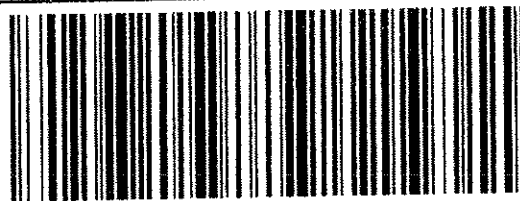
NJ 078 9-02



UPS 2ND DAY AIR

TRACKING #: 1Z 302 5AA 02 4422 9035

2



BILLING: P/P

Department: 3101010-687604
 Shippers Name: APHALEN MARKETING

H5 10.0.47 Eitron LP2348 78.0A 04/2008



International Shipping Notice: Consignee hereby agrees to be subject to the terms, conditions, and other applicable provisions established by the Consignee for the Use of the
 United States Shipping to International Carriage by Air (the "Warsaw Convention") and/or the Convention on the International Carriage of Goods by Road (the "CMR
 Convention"). These Conventions, including all amendments and protocols thereto, are incorporated by reference into this contract. Consignee's liability is limited to the
 United States Postal Service, Louisville, KY.
 For more information, call 1-800-785-7872.

Exhibit D

Start a domain search:

com

GO!

Today's Offers



SAY NO to renewal increases!
Transfer your .COM, .NET,
or .ORG for only \$6.99!*



Express yourself.
Tell your story with the most
personal domain name!

CEO & Founder

BOB PARSONS.TV

What I tell every Go Daddy Girl.
CAUTION: MATURE CONTENT.

Domains Hosting & Servers Site Builders SSL Certificates Business Email Domain Auctions Reseller Plans

WHOIS

Search Results for:

VANGUARDPRODUCTIONS.NET

Search Again

Enter a Domain Name to Check

.com

GO

The data contained in GoDaddy.com, Inc.'s WHOIS database, while believed by the company to be reliable, is provided "as is" with no guarantee or warranties regarding its accuracy. This information is provided for the sole purpose of assisting you in obtaining information about domain name registration records. Any use of this data for any other purpose is expressly forbidden without the prior written permission of GoDaddy.com, Inc. By submitting an inquiry, you agree to these terms of usage and limitations of warranty. In particular, you agree not to use this data to allow, enable, or otherwise make possible, dissemination or collection of this data, in part or in its entirety, for any purpose, such as the transmission of unsolicited advertising and solicitations of any kind, including spam. You further agree not to use this data to enable high volume, automated or robotic electronic processes designed to collect or compile this data for any purpose, including mining this data for your own personal or commercial purposes.

Please note: the registrant of the domain name is specified in the "registrant" field. In most cases, GoDaddy.com, Inc. is not the registrant of domain names listed in this database.

Registrant:
Vanguard Production

390 Campus Dr
Summerset, New Jersey 08873
United States

Registered through: GoDaddy.com, Inc. (<http://www.godaddy.com>)
Domain Name: VANGUARDPRODUCTIONS.NET
Created on: 07-Sep-06
Expires on: 07-Sep-08
Last Updated on: 01-Sep-07

Administrative Contact:
Spurlock, J. David snakehunters@yahoo.com
Vanguard Production
390 Campus Dr
Summerset, New Jersey 08873
United States
7327488895

Technical Contact:
Spurlock, J. David snakehunters@yahoo.com
Vanguard Production
390 Campus Dr
Summerset, New Jersey 08873
United States
7327488895

Domain servers in listed order:
NS.VDS2000.NET
NS2.VDS2000.NET

Registry Status: clientDeleteProhibited
Registry Status: clientRenewProhibited
Registry Status: clientTransferProhibited

Available TLDs

- ☐ VANGUARDPRODUCTIONS. \$9.99/yr ORG
- ☐ VANGUARDPRODUCTIONS. \$0.99/yr SAVE! INFO
- ☐ VANGUARDPRODUCTIONS. \$8.99/yr SAVE! US
- ☐ VANGUARDPRODUCTIONS. \$14.99/yr NAME
- You might also consider:**
- ☐ VANGUARDPRODUCTIONSS \$9.99/yr ITE. COM
- ☐ SITEVANGUARDPRODUCTI \$9.99/yr ONS. COM
- ☐ VANGUARDPRODUCTIONSO \$9.99/yr NLINE. NET
- ☐ ONLINEVANGUARDPRODUC \$9.99/yr TIONS. NET
- ☐ VANGUARDPRODUCTIONSS \$9.99/yr TORE. ORG
- ☐ STOREVANGUARDPRODUCT \$9.99/yr IONS. ORG
- ☐ VANGUARDPRODUCTIONS \$0.99/yr SAVE! OW. INFO
- ☐ NOWVANGUARDPRODUCTIO \$0.99/yr SAVE! NS. INFO
- ☐ VANGUARDPRODUCTIONS \$14.99/yr LOG. BIZ
- ☐ BLOGVANGUARDPRODUCTI \$14.99/yr ONS. BIZ
- ☐ VANGUARDPRODUCTIONSS \$8.99/yr SAVE! HOP. US
- ☐ SHOPVANGUARDPRODUCTI \$8.99/yr SAVE! ONS. US
- ☐ VANGUARDPRODUCTIONST \$14.99/yr ODAY. NAME

REGISTER NOW!

**Interested in this
domain name?**
[Let our Domain Buy Service
help you get it.](#)

\$1.99 Domain Names
[Register a domain name
for only \\$1.99 with each
new, non-domain product.](#)

Registry Status: client update prohibited

[Report Invalid Whois](#)[See Underlying Registry Data](#)**World-Class Web Hosting**

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24/7 support & more!

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email address with built-in
Fraud, Spam & Virus Protection.

24/7 Sales and Support: (480) 505-8877 ➤ Billing Questions? Call (480)505-8855

Free Email Updates! Enter address



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[Resellers](#) | [Link to Us](#) | [ICANN Domain Confirmation](#)

[GoDaddy.tv](#) | [GoDaddyLive.com](#) | [BobParsons.tv](#) | [GoDaddyGirls.info](#) | [WildWestDomains.com](#)

[DomainNameAftermarket.com](#) | [GoDaddyConnections.com](#)



GoDaddy.com is the world's No. 1 ICANN-accredited domain name registrar for .COM, .NET, .ORG, .INFO,
.BIZ and .US domain extensions. Source: Name Intelligence, Inc. 2006

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Exhibit E



CONNOLLY B. E. LODGE & HUTZ LLP

ATTORNEYS AT LAW

Michael L. Lovitz
Partner
Bar Affiliation: Pennsylvania
TEL (302) 888-6231
FAX (302) 658 5614
EMAIL mlovitz@cblh.com
REPLY TO Wilmington Office

WILMINGTON, DE

The Nemours Building
1007 North Orange St.
P.O. Box 2207
Wilmington, DE 19899
TEL: (302) 658 9141
FAX: (302) 658 5614
WEB: www.cblh.com

November 20, 2006

VIA DHL

Perseus Books Group
Attn: Legal Department
387 Park Avenue South, 12th Floor
New York, NY 10016

Re: Trademark Infringement of Vanguard Production's
"VANGUARD" Trademarks for publications
Our File: 11364-2

Dear Sir or Madam:

This firm represents Vanguard Productions of Somerset, NJ ("Vanguard") in connection with certain trademark and unfair competition matters.

Vanguard is a publisher of books, magazines, comic books, cards, art prints and other printed matter. Since 1990, Vanguard has used the trademark "VANGUARD", alone and in combination with the terms "PRODUCTIONS", "MAGAZINE", "PRESS", "STUDIO", "COMICS", and "PUBLISHING" (collectively the "Vanguard Marks"), in commerce in connection with such publishing services. The Vanguard Marks appears directly on the published products themselves, which products are intended for sale to the consuming public. Additionally, Vanguard uses the Vanguard Productions trade name in connection with its distribution and sale of these publications. Vanguard's high-quality publications have received critical acclaim, and a number of its products have been nominated for various publishing awards, including the Eisner Awards and the IPPY Awards.

During the past sixteen (16) years, our client has built a substantial business in connection with its Vanguard Marks and name. Our client has established an extremely valuable reputation and goodwill in the marketplace and within the publishing industry associated with the Vanguard Marks and name as a result of its continuous, substantial use of such marks and name in connection with its publications and its services. Accordingly, such marks and name have become valuable assets of Vanguard.

Our client has recently become aware that Perseus Books Group ("Perseus") has chosen to rename its CDS Books imprint, and has selected "Vanguard Press" as the new name for this imprint. Further, it appears that Perseus has solicited at least four (4) works to be published under the Vanguard Press imprint, such works having publications dates at least as early as



CONNOLLY BOVE LODGE & HUTZ LLP

ATTORNEYS AT LAW

Perseus Books Group
November 20, 2006
Page 2

March 1, 2007. As can be seen from the attached listing obtained from Buy.com, March 1, 2007 is the listed publication date for the novel "Scavenger" by David Morrell, described as a "desperate high-tech scavenger hunt for a hundred-year-old time capsule", from Vanguard Press, a division of the Perseus Books Group.

Due to the similarity of the Perseus "Vanguard" mark with our client's Vanguard Marks and name, the fact that the respective marks are applied to published materials, namely books, which would be marketed to the same class of purchasers through the same or similar channels of trade, including both brick-and-mortar and internet stores, we believe the use of "Vanguard Press" by Perseus as the new name of its CDS Books imprint is likely to cause confusion in the marketplace, dilute the distinctiveness of our client's Vanguard Marks in our client's field of endeavor, and would, accordingly, infringe on the goodwill developed by our client in its Vanguard Marks and name.

Because it appears that actual sales of products bearing the "Vanguard Press" imprint have not yet been made, our client is amenable to resolving this matter amicably. Accordingly, on behalf of Vanguard Productions, we hereby request that Perseus take the following steps:

- (i) immediately upon receipt of this letter, cease all active use of the "Vanguard Press" mark, or any other mark containing or comprising the term "VANGUARD", with respect to any publications, and commit to insuring that no books bearing the "Vanguard Press" mark or imprint name are manufactured or distributed;
- (ii) immediately upon receipt of this letter, cease all active promotion of the "Vanguard Press" name as the name of a publishing unit and/or imprint;
- (iii) commit to taking immediate steps to cease use of "Vanguard Press" in all advertisements and promotional materials, whether printed or electronic (and for advertisements already placed, to take steps to revise such advertisements to remove any reference to "Vanguard Press"), and to ceasing use of any product packaging, physical copies of the products, and all related materials which bear the "Vanguard Press" imprint;
- (iv) commit to selecting a new imprint name that does not contain the term "VANGUARD" to replace its CDS Books imprint;
- (v) commit to using all reasonable business efforts to provide distributors and retailers, including online retailers, with updated product information, and new or revised promotional materials which contain no reference to the "Vanguard Press" imprint, not less than sixty (60) days following receipt of this letter;



CONNOLLY BOVE LODGE & HUTZ LLP

ATTORNEYS AT LAW

Perseus Books Group

November 20, 2006

Page 3

(vi) within thirty (30) days of receipt of this letter, revise any website owned or controlled by Perseus which contain or refer to the "Vanguard Press" imprint, including press releases posted thereto, to remove all references to "Vanguard Press", replacing such name with the new imprint selected; and

(iv) confirm your compliance with these requests by signing and returning the enclosed copy of this letter.

We look to receive your written assurance not later than the close of business Monday, December 4, 2006 that you will comply with these requests. If we do not receive such assurances, our client reserves the right to take whatever action it deems appropriate to protect its valuable trademark rights with no further notice to you.

Any offer of compromise contained herein is without prejudice to any demand that may be made on behalf of Vanguard Productions should further action be necessary to protect our client's valuable trademark rights.

Thank you in advance for your prompt attention to this matter.

Very truly yours,

CONNOLLY BOVE LODGE & HUTZ, LLP

MICHAEL E. LOVITZ

MLL/bms

Enclosure

cc: Vanguard Productions (via 1st Class Mail)

AGREED TO AND ACCEPTED:

PERSEUS BOOKS GROUP

By: _____

Name: _____

Title: _____

Dated: _____

Exhibit F



CONNOLLY BOVE LODGE & HUTZ LLP

ATTORNEYS AT LAW

Michael L. Lovitz
Partner
Bar Affiliation: Pennsylvania
TEL (213) 757-2518
FAX (213) 687-0498
EMAIL ml@cbhlh.com
REPLY TO Los Angeles

LOS ANGELES, CA
355 S. Grand Ave.
Suite 3150
Los Angeles, CA 90071
TEL: (213) 787 2500
FAX: (213) 687 0498
WEB: www.cbhlh.com

March 19, 2007

VIA EMAIL

CONFIRMATION BY CERTIFIED MAIL

Kevin W. Goering, Esq.
Sheppard, Mullin, Richter & Hampton LLP
30 Rockefeller Plaza, 24th Floor
New York, NY 10112

Re: Infringement by Perseus Books Group of
"VANGUARD" Trademark
Our File: 11364-2

Dear Kevin:

This has reference to my letter of November 20, 2006 addressed to Perseus Books Group ("Perseus"), and is further to our telephone discussion of December 4 and my email correspondence to you dated December 14, concerning Perseus' announced intention to adopt "Vanguard Press", in direct violation of our client's rights. To date, we have received no formal response to the letter, my December 14 email correspondence, or my reminder of February 7.

To recap my prior correspondence, this firm represents Vanguard Productions of Somerset, NJ ("Vanguard") in connection with certain trademark and unfair competition matters. Vanguard is a publisher of books, magazines, comic books, cards, art prints and other printed matter, and has, since 1990, published, promoted, distributed and sold its products under the trademark "VANGUARD", alone and in combination with the terms "PRODUCTIONS", "MAGAZINE", "PRESS", "STUDIO", "COMICS", and "PUBLISHING" (collectively the "Vanguard Marks"). Vanguard is generally recognized and referred to in the industry as "Vanguard Press".

The Vanguard Marks and trade name are valuable assets of Vanguard. Our client has built a substantial business in connection with such Marks and name, and has developed significant good will in such Marks and name as a result of their seventeen (17) years of continuous use of the same. As previously explained, Vanguard uses the trade name "Vanguard Productions" in connection with its distribution and sale of its numerous publications, and uses the Vanguard Marks by affixing such Marks directly to the printed publications. Vanguard's



CONNOLLY BOVE LODGE & HUTZ LLP
ATTORNEYS AT LAW

Perseus Books Group

March 19, 2007

Page 2

high-quality publications have received critical acclaim, and a number of its products have been nominated for various publishing awards, including the Eisner Awards and the IPPY Awards. As a result of Vanguard's efforts, our client has established an extremely favorable reputation in the marketplace and within the publishing industry associated with the Vanguard Marks and name.

Our November 20 cease and desist letter, directed to Perseus (and forwarded to your attention), was sent after Vanguard had become aware that Perseus had chosen to rename its CDS Books imprint as "Vanguard Press". On December 14, I confirmed via email that Vanguard had no interest in exploring the possibility of a coexistence agreement, as no scenario could be envisioned under which two publishing companies could coexist using the identical name without confusion resulting in the industry and/or the public.

The selection and use by Perseus of "Vanguard Press" infringes on Vanguard's valuable trademark rights, and is likely to cause confusion in the marketplace, dilute the distinctiveness of our client's Vanguard Marks and harm the goodwill Vanguard has established in its Marks and name. Such mark will be used by your client on goods which are competitive with those of our client and will travel through the same or similar trade channels, directed to the same or similar class of purchasers.

Further, Perseus selected the "Vanguard Press" name despite its actual knowledge of our client's existence and its prominence in the book publishing industry. Additionally, its actions in proceeding with the launch of the imprint, including the creation and population of the vanguardpressbooks.com website, were intentional actions undertaken with full knowledge of our client's pre-existing trademark rights, and of Vanguard's clear and unambiguous objections to such infringing activities.

Perseus' actions in selecting the name "Vanguard Press" for its imprint, in the face of its actual knowledge of Vanguard's trademark rights, its objections to such use, and its formal written demand to cease and desist from adopting the infringing mark, constitute intentional infringement. In any action to enforce its rights, Vanguard would be entitled to recover (i) Perseus' profits, (ii) Vanguard's damages, and (iii) the costs of the action. Additionally, given the fact that Perseus' infringement is clearly intentional, and was undertaken with full knowledge, and in blatant disregard, of Vanguard's established trademark rights, Vanguard would be entitled to an award of treble damages, plus attorneys' fees.

Vanguard Productions therefore demands that the Perseus Books Group undertake the following actions:

- A. Immediately upon receipt of this letter, cease all active use of the "Vanguard Press" mark and commit to make no further use of "Vanguard Press" on or in connection



CONNOLLY BOVE LODGE & HUTZ LLP

ATTORNEYS AT LAW

Perseus Books Group

March 19, 2007

Page 3

with the publication, distribution or sale of books, or to promote or identify a publishing division or imprint of Perseus;

- B. Immediately upon receipt of this letter, cease all active promotion of the "Vanguard Press" imprint;
- C. Immediately, upon receipt of this letter, disable the vanguardpressbooks.com website and all pages contained therein, and remove all references to such website which may be located on any other Perseus owned and/or operated website, including revising the Privacy Policy and Terms portions of such websites to eliminate references to Vanguard Press and/or the vanguardpressbooks.com website;
- D. Immediately cease all manufacture, distribution and/or sale of printed publications under or bearing the "Vanguard Press" mark or imprint name, and, to the extent any such products have already been distributed, immediately take all steps necessary to recall any and all products not yet sold to the consuming public, and pay Vanguard a royalty for all products which have been sold and cannot be recalled;
- E. Immediately cease distribution of any product packaging, sample and review copies of the publications, and any other related materials which bear the "Vanguard Press" imprint or mark;
- F. Immediately cease distribution of marketing, advertising or promotional materials, including solicitation materials, whether printed or electronic, which contain any reference to "Vanguard Press", and commit to take immediate steps to revise any online advertisements or promotions so as to remove all references to "Vanguard Press";
- G. Within five (5) business days of receipt of this letter, contact all online retailers currently listing any "Vanguard Press" future publications and require such retailers to remove all references to "Vanguard Press" from all such product listings, including (but not limited to) Amazon.com (including all country code variations thereof), BarnesandNoble.com, Buy.com, Walmart.com, Books-a-Million.com, Booksense.com, Powells.com, A1Books.com, gohastings.com, and Indigo.ca;
- H. Commit to selecting a new imprint name that does not contain or comprise "VANGUARD"; and
- I. Pay to Vanguard its reasonable costs and attorneys fees incurred in connection with this matter.



CONNOLLY BOVE LODGE & HUTZ LLP
ATTORNEYS AT LAW

Perseus Books Group
March 19, 2007
Page 4

We request that Perseus Books Group confirm their compliance with these requests by having an officer or other representative authorized to bind Perseus sign (where indicated below) and return a copy of this letter to our office by fax or return email no later than close of business on Friday, March 30, 2007.

In the event that this matter is not resolved promptly to our client's satisfaction, Vanguard reserves the right to take whatever additional steps it deems necessary to protect its valuable trademark rights, with no further notice to you or your client.

Any offer of compromise contained herein is without prejudice to any demand that may be made on behalf of Vanguard Productions should further action be necessary to protect our client's valuable trademark rights.

Thank you in advance for your prompt attention to this matter.

Very truly yours,

CONNOLLY BOVE LODGE & HUTZ, LLP



MICHAEL L. LOVITZ

MLL/kw

cc: Vanguard Productions (via email)
David Steinberger, President and CEO
Perseus Books (via registered mail)

AGREED TO AND ACCEPTED:

PERSEUS BOOKS GROUP

By: _____

Name: _____

Title: _____

Dated: _____

Exhibit G



CONNOLLY BOVE LODGE & HUTZ LLP

ATTORNEYS AT LAW

Michael L. Lovitz
Partner
Bar Affiliation: Pennsylvania
TEL (213) 757-2518
FAX (213) 687-0498
EMAIL mlt@cblhllp.com
REPLY TO Los Angeles

Wells Fargo Center
South Tower, Suite 3150
355 South Grand Avenue
Los Angeles CA 90071
TEL (213) 787 2500
FAX (213) 687 0498

The Nemours Building
1007 North Orange Street
P.O. Box 2207
Wilmington DE 19899
TEL (302) 658 9141
FAX (302) 658 5614

1990 M Street, NW, Suite 800
Washington DC 20036
TEL (202) 331 7111
FAX (202) 293 6229

WEB www.cblh.com

May 31, 2007

VIA EMAIL
CONFIRMATION BY FIRST CLASS MAIL

Kevin W. Goering, Esq.
Sheppard, Mullin, Richter & Hampton LLP
30 Rockefeller Plaza, 24th Floor
New York, NY 10112

Re: Infringement by Perseus Books Group of
"VANGUARD" Trademark
Our File: 11364-2

Dear Kevin:

This has reference to my letters of November 20, 2006 and March 19, 2007, and is further to our telephone discussions and email correspondence concerning Perseus' announced intention to adopt "Vanguard Press", in direct violation of our client's rights.

To date, we have received no formal response to our letters or emails, despite several reminders, including my recent telephone voice mail message.

As I noted in my message, our client would be willing to consider any proposals your client may wish to put forth concerning the purchase of our client's mark and name, or grounds for coexistence, with the understanding that any such offer would necessarily include a significant monetary component.

Given the length of time that has passed since your last contact with our office, we request that you provide a written response to our letters, including any proposals you may wish our client to consider, no later than the close of business June 8, 2007.

If we have not received a written response by that date, we will conclude your client does not wish to explore the possibility of an amicable resolution to this matter, and will so advise our client. Vanguard will then weigh its options and take those additional steps it deems necessary to protect its valuable trademark rights, without further notice.



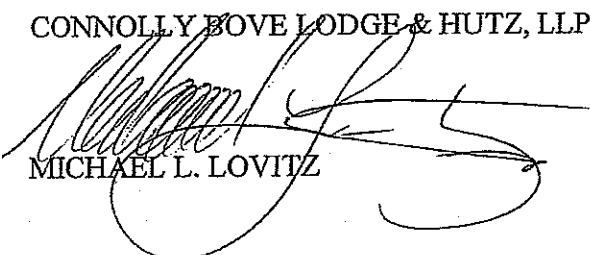
CONNOLLY BOVE LODGE & HUTZ LLP
ATTORNEYS AT LAW

Kevin W. Goering, Esq
May 31, 2007
Page 2

Any offer of compromise contained herein is without prejudice to any demand that may be made on behalf of Vanguard Productions should further action be required.

Very truly yours,

CONNOLLY BOVE LODGE & HUTZ, LLP



MICHAEL L. LOVITZ

MLL/mhl

cc: Vanguard Productions (via email)

Exhibit H

GRIMES & BATTERSBY, LLP

ATTORNEYS AT LAW
488 MAIN AVENUE
NORWALK, CONNECTICUT 06851-1008
(203) 849-8300

www.gandb.com

Fax: (203) 849-9300

October 17, 2007

VIA FACSIMILE and U.S. MAIL

Kevin W. Goering, Esq.
Sheppard, Mullin, Richter & Hampton LLP
30 Rockefeller Plaza, 24th Floor
New York, NY 10112

**Re: Infringement of Vanguard Productions' Trademarks
Our File No.: VAN002USL**

Dear Attorney Goering:

We have been retained by Vanguard Productions ("Vanguard") in connection with its intellectual property claims against Perseus Books Group ("Perseus"). In light of the fact that Perseus has failed to respond to Vanguard's previous counsel's numerous letters, we have taken over this matter on Vanguard's behalf. Accordingly, please direct all future communications to us.

As a result of its seventeen (17) years of continuous use in commerce, Vanguard has acquired trademark rights in the "VANGUARD" mark and in various VANGUARD-composite marks, including "VANGUARD PRESS," "VANGUARD PRODUCTIONS," "VANGUARD MAGAZINES," "VANGUARD STUDIO," "VANGUARD COMICS," "VANGUARD PUBLISHING," "VANGUARD CORPORATION and Design" and "VANGUARD ACCREDITED and Design," in connection with its printed publications, namely, books, magazines, comic books, cards, art prints and other printed matter. In addition, Vanguard has a pending federal trademark application for "VANGUARD PRODUCTIONS" for "publishing of books, magazines; publishing of electronic publications; publishing and distribution of books, reviews and other printed matter as well as related electronic data carriers; production of visual effects for videos, DVDs, television and for internet websites; videotape production" in International Class 41. (These trademarks are hereinafter referred to collectively as the "VANGUARD Trademarks"). Vanguard uses the VANGUARD Trademarks by affixing them directly to its printed publications. Vanguard also uses the "Vanguard Productions" trade name (the "VANGUARD Trade Name") in connection with its distribution and sale of these printed publications.

Kevin W. Goering, Esq.
October 17, 2007
Page 2 of 3

Since its inception in 1990, our client has developed significant goodwill in the **VANGUARD** Trademarks and **VANGUARD** Trade Name. Vanguard has spent substantial amounts of money on national advertising campaigns. Several of its publications have received critical acclaim from *The New York Times*, *Publishers Weekly*, *Library Journal*, *Entertainment Weekly*, *Time Out New York* and *The Village Voice*. Vanguard publications have also been nominated for the Eisner Award and the IPPY Award. The **VANGUARD** Trademarks and **VANGUARD** Trade Name are inherently distinctive to the public and serve primarily as designators of origin for Vanguard and its products.

It has come to our client's attention that, notwithstanding Vanguard's vociferous protests, Perseus has indeed adopted and begun using the name "Vanguard Press" for a new imprint of books and has already advertised and sold seven (7) books under this name. In addition, Perseus has registered the domain name www.vanguardpressbooks.com in bad faith and has used this website to advertise the aforementioned books. Your client's use of the name "Vanguard Press" in connection with the sale of printed publications is likely to cause confusion, mistake or deception as to the source of origin of your client's goods. This name is sufficiently similar to our client's **VANGUARD** Trademarks and **VANGUARD** Trade Name—in fact, it is identical to our client's **VANGUARD PRESS** trademark—such that consumers are likely to believe that your client's publications are in some manner affiliated with, sponsored by or approved by Vanguard. This is particularly true where the publications are likely to be sold through the same or similar channels of distribution to the same or similar class of purchasers.

Your client's unauthorized use of the "Vanguard Press" name in the aforementioned manner constitutes blatant trademark infringement, dilution, unfair competition, false designation of origin and cybersquatting, under Sections 43(a) and 43(d) of the Lanham Act (15 U.S.C. §§1125(a) and 1125(d)) and under state law. Moreover, your client has had actual knowledge of Vanguard's rights in its **VANGUARD** Trademarks and **VANGUARD** Trade Name since at least as early as November 20, 2006. Accordingly, your client is a willful infringer.

Due to Perseus's blatant and willful infringement of Vanguard's **VANGUARD** Trademarks and **VANGUARD** Trade Name, Vanguard is entitled to an injunction and money damages, consisting of Perseus's profits, Vanguard's damages and costs, as well as attorneys' fees.

If your client has any interest in trying to resolve this matter amicably, please contact us on or before October 31, 2007 to initiate settlement discussions.

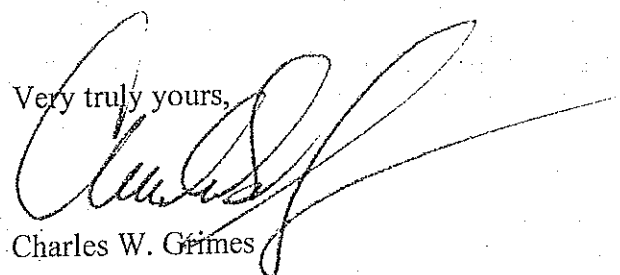
If you do not contact us, or if it becomes clear in the course of any such settlement discussions that your client is not acting in good faith, we will be forced to recommend to our client that they institute legal proceedings against Perseus, in which our client will ask the court to:

Kevin W. Goering, Esq.
October 17, 2007
Page 3 of 3

- i) enjoin Perseus from making any and all further unauthorized infringing use of the **VANGUARD** Trademarks and **VANGUARD** Trade Name;
- ii) grant our client recovery of its monetary damages and Perseus's profits from the sale of any goods or services related to Perseus's use of the **VANGUARD** Trademarks or **VANGUARD** Trade Name; and
- iii) pay our client's costs and attorneys' fees for the deliberate infringement of our client's trademark rights.

This letter is for settlement purposes only and is sent without prejudice to our client's rights and claims, all of which are expressly reserved.

Very truly yours,


Charles W. Grimes

cc: Vanguard Productions

Exhibit I

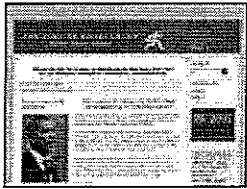
WHOIS Search Results

Available perseusbooks extensions:

.net	.org	.us	.mobi	.info	.biz	.de	.tv	.eu	.bz
----------------------	----------------------	---------------------	-----------------------	-----------------------	----------------------	---------------------	---------------------	---------------------	---------------------

[Order Selected Domain\(s\) >](#)

Your WHOIS Search Results



perseusbooks.com

Services from Network Solutions:

- [Certified Offer Service](#) - Let us help you get this domain name!
- [Backorder](#) - Try to get this name when it becomes available.
- [Private Registration](#) - Keep personal information for this domain private.
- [SSL Certificates](#) - Get peace of mind with a secure certificate.
- [Enhanced Business Listing](#) - Promote your business to millions of viewers for only \$1 a month!

Visit AboutUs.org for more information about PERSEUSBOOKS.COM [AboutUs: PERSEUSBOOKS.COM](#)

Registrant:

Perseus Books LLC
387 Park Avenue South
12th Floor
New York, NY 10016
US

[Make this info private](#)

Domain Name: PERSEUSBOOKS.COM

Promote your business to millions of viewers for only \$1 a month!

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[Learn More](#)

Administrative Contact :

Thousands of g
domain names
everyday...

Be the first to
using our
NEW RSS f



Subs

DOMAIN OPTIONS

Premium Name

- ☐ booksandsuch.net
\$888
- ☐ connecticutusedbr
\$849
- ☐ eagerreaderbooks
\$300
- ☐ booksandsuch.cor
\$1,688
- ☐ norwalkbooks.com
\$399
- ☐ booksplusinc.com
\$300
- ☐ books-books.net
\$788

Misspellings

- ☐ perseusbookz.com

Maneval, Mark
 mark.maneval@PERSEUSBOOKS.COM
 2465 Central Avenue
 Boulder, CO 80301
 US
 Phone: (720) 406-7300
 Fax: (720) 406-7337

Technical Contact :
 Ilacqua, Joseph **
 john@indra.com
 2525 28th St.
 Suite 136
 BOULDER, CO 80301
 US
 Phone: (303)546-9151
 Fax: 123 123 1234

Record expires on 28-Sep-2010
 Record created on 29-Sep-1997
 Database last updated on 28-Mar-2007

Domain servers in listed order:

NS1.INDRA.COM
 NS2.INDRA.COM
 DNS.BITWAY.COM

[Manage DNS](#)

[209.169.0.1](#)
[209.169.31.1](#)

[Show underlying registry data for this record](#)

Current Registrar: NETWORK SOLUTIONS, LLC.
IP Address: 63.175.72.13 (ARIN & RIPE IP search)
IP Location: US(UNITED STATES)-COLORADO-BOULDER
Record Type: Domain Name
Server Type: Apache
Lock Status: clientTransferProhibited
Web Site Status: Active
DMOZ no listings
Y! Directory: [see listings](#)
Secure: No
E-commerce: No
Traffic Ranking: 1
Data as of: 07-Mar-2008

☐ perseusboks.com
☐ perseusboooks.cc
☐ p3rseusbooks.com
☐ prseusbooks.com
☐ pers3usbooks.com
☐ persusbooks.com
☐ persuesbooks.com

Similar Names

☐ perseuspublicatio
☐ perseus-publicatic
☐ perseusbestseller:
☐ perseus-bestseller
☐ buyperseusbooks.
☐ buyperseuspublica
☐ buyperseusbestse
☐ christianperseusbr

Add Dom

SEARCH AGAIN

Enter a search term:

e.g. networksolutions.cc

Search by:

- ☒ [Domain Name](#)
☐ [NIC Handle](#)
☐ [IP Address](#)



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Ecommerce Web Design
Merchant Accounts

SOLUTIONS TO GET CUSTOMERS

Online Marketing
PPC Advertising
SEO Services

SOLUTIONS FOR ONLINE SECURITY

SSL Certificates
Private Domain Registration
Email Security

SOLUTIONS TO SAVE MONEY

Promotions & Free Offers
Earn Airline Offers

COMPANY INFORMATION

Network Solutions Labs
Reseller Programs
Affiliates
SEO Training
Resources and Learning Center
Small Business Blog
About Us
Jobs
WHOIS Search
Site Map
Privacy Policy
Terms of Use

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.com

Search

GET A FREE



"An outstanding customer service experience"
J.D. Power and Associates



100% Secure Transaction

For your protection, this Web site is secured with the highest level of SSL Certificate encryption.

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Exhibit J

WHOIS Search Results

Available vanguardpressbooks extensions:

<input type="checkbox"/> .net	<input type="checkbox"/> .org	<input type="checkbox"/> .us	<input type="checkbox"/> .mobi	<input type="checkbox"/> .info	<input type="checkbox"/> .biz	<input type="checkbox"/> .de	<input type="checkbox"/> .tv	<input type="checkbox"/> .co.uk	<input type="checkbox"/> .eu	<input type="checkbox"/> .bz
-------------------------------	-------------------------------	------------------------------	--------------------------------	--------------------------------	-------------------------------	------------------------------	------------------------------	---------------------------------	------------------------------	------------------------------

[Order Selected Domain\(s\) >>](#)

Your WHOIS Search Results



vanguardpressbooks.com

Services from Network Solutions:

- [Certified Offer Service](#) - Let us help you get this domain name!
- [Backorder](#) - Try to get this name when it becomes available.
- [Private Registration](#) - Keep personal information for this domain private.
- [SSL Certificates](#) - Get peace of mind with a secure certificate.
- [Enhanced Business Listing](#) - Promote your business to millions of viewers for only \$1 a month!

Visit AboutUs.org for more information about VANGUARDPRESSBOOKS.COM [AboutUs:](#)
VANGUARDPRESSBOOKS.COM

Registrant:
 Perrin, Brian

[Make this info private](#)

62 W 62ND ST #3G
 NEW YORK, NY 10023
 US

Domain Name: VANGUARDPRESSBOOKS.COM

Promote your business to millions of viewers for only \$1 a month!

Learn how you can get an Enhanced Business Listing here for your domain name.

[Learn More](#)

If the world is m
 how in the world
 domain name th

DOMAIN OPTIONS

Premium Name

- ☐ pressbooks.com
\$3,788
- ☐ norwalkbooks.com
\$399
- ☐ completetravellert
\$300
- ☐ vanguardinstitute.i
\$488
- ☐ stamfordbooks.co
\$649
- ☐ gardeniapress.cor
\$390
- ☐ vanguardvillage.cr
\$1,588

Misspellings

- ☐ vanguardpressbox
- vanguardpressbox

Administrative Contact , Technical Contact :

Perrin, Brian
 brian@abmarketworks.com
 62 W 62ND ST #3G
 NEW YORK, NY 10023
 US
 Phone: 646-319-0656
 Fax: 212-691-6476

Record expires on 21-Sep-2016
 Record created on 21-Sep-2006
 Database last updated on 23-Oct-2006

Domain servers in listed order:

NS1.INDRA.COM
 NS2.INDRA.COM
 DNS.BITWAY.COM

Manage DNS

209.169.0.1
 209.169.31.1

Show underlying registry data for this record

Current Registrar: NETWORK SOLUTIONS, LLC.

IP Address: 209.169.7.108 (ARIN & RIPE IP search)

IP Location: US(UNITED STATES)-TEXAS-LUFKIN

Record Type: Domain Name

Server Type: Apache 2

Lock Status: clientTransferProhibited

Web Site Status: Active

DMOZ no listings

Y! Directory: see listings

Secure: No

E-commerce: No

Traffic Ranking: Not available

Data as of: 14-Jun-2005



☐ vanguardpressbot

☐ vanguardpressbor

☐ vanguardpresbool

☐ vanguardpresssbc

☐ vanguardpressbook

☐ vanguardpressbook

Similar Names

☐ vanguard-press-bi

☐ vanguard-media-b

☐ vanguardmediabo

☐ vanguardpressput

☐ vanguard-press-bi

☐ vanguardpressbes

☐ vanguard-press-pi

☐ vanguardmediapu

Add Dom

SEARCH AGAIN

Enter a search term:

e.g. networksolutions.cc

Search by:

☒ **Domain Name**

☐ **NIC Handle**

☐ **IP Address**



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Email Hosting

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Ecommerce Web Design
Merchant Accounts

SOLUTIONS TO GET CUSTOMERS

Online Marketing
PPC Advertising
SEO Services

SOLUTIONS FOR ONLINE SECURITY

SSL Certificates
Private Domain Registration
Email Security

SOLUTIONS TO SAVE MONEY

Promotions & Free Offers
Earn Airline Offers

COMPANY INFORMATION

Network Solutions Labs
Reseller Programs
Affiliates
SEO Training
Resources and Learning Center
Small Business Blog
About Us
Jobs
WHOIS Search
Site Map
Privacy Policy
Terms of Use

SEARCH FOR A DOMAIN:

.com

Search

GET A FREE



"An outstanding customer service experience"
J.D. Power and Associates



100% Secure Transaction

For your protection, this Web site is secured with the highest level of SSL Certificate encryption.

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Exhibit K

WHOIS Search Results

Available **vanguardpress** extensions:

.org	.mobi	.de	.tv	.co.uk	.eu	.bz
----------------------	-----------------------	---------------------	---------------------	------------------------	---------------------	---------------------

[Order Selected Domain\(s\) >](#)

Your WHOIS Search Results



vanguardpress.net

Make an instant, anonymous offer to the current domain registrant. [Learn More](#)

[Make an offer to buy this domain >](#)

Visit [AboutUs.org](#) for more information about VANGUARDPRESS.NET [AboutUs: VANGUARDPRESS.NET](#)

Registrant:
Perrin, Brian

[Make this info private](#)

62 W 62ND ST #3G
NEW YORK, NY 10023
US

Domain Name: VANGUARDPRESS.NET

Promote your business to millions of viewers for only \$1 a month!

Learn how you can get an Enhanced Business Listing here for your domain name.

[Learn More](#)

Administrative Contact , Technical Contact :

If the world is m
how in the world
domain name th

DOMAIN OPTIONS

Premium Name

- ☐ [vanguardinstitute.i](#)
\$488
- ☐ [pressmanufacture](#)
\$1,049
- ☐ [fireflypress.com](#)
\$300
- ☐ [vanguardvillage.co](#)
\$1,588
- ☐ [conventionpress.c](#)
\$749
- ☐ [spanishforkpress.i](#)
\$330
- ☐ [vanguardtravel.co](#)
\$8,340

Misspellings

- ☐ [vanguardpresz.co](#)
- [vanguardpres.com](#)

Perrin, Brian
 brian@abmarketworks.com
 62 W 62ND ST #3G
 NEW YORK, NY 10023
 US
 Phone: 646-319-0656
 Fax: 212-691-6476

Record expires on 21-Sep-2016
 Record created on 21-Sep-2006
 Database last updated on 23-Oct-2006

Domain servers in listed order:

NS1.INDRA.COM
NS2.INDRA.COM
DNS.BITWAY.COM

Manage DNS

209.169.0.1
209.169.31.1

Show underlying registry data for this record

Current Registrar: NETWORK SOLUTIONS, LLC.

IP Address: 209.169.7.108 (ARIN & RIPE IP search)

IP Location: US(UNITED STATES)-TEXAS-LUFKIN

Record Type: Domain Name

Server Type: Apache 2

Lock Status: clientTransferProhibited

Web Site Status: Active

DMOZ no listings

Y! Directory: see listings

Secure: No

E-commerce: No

Traffic Ranking: Not available

Data as of: 14-Jun-2005

- ☐ vanguardpresss.c
- ☐ vanguardpress.com
- ☐ vangardpress.com
- ☐ vangaurdpress.co
- ☐ vangurdpress.com
- ☐ vangurdpress.com
- ☐ vanguardprass.co

Similar Names

- ☐ vanguard-press.cc
- ☐ vanguardpresz.co
- ☐ vanguardpressnev
- ☐ vanguardjournalis
- ☐ vanguard-journalis
- ☐ vanguardmediane
- ☐ vanguardpressclul
- ☐ vanguardmediactl

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SEARCH AGAIN

Enter a search term:

e.g. networksolutions.cc

Search by:

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- ☐ IP Address



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About Us
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What We Do
Responsibility
Careers
News
Privacy Policy
Terms of Use

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Customer Feedback
Network Solutions Labs
Learning Center
Small Business Blog
SEO Training
Reseller Programs
Affiliates
Site Map



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Exhibit L

SirReadaLot.org

A personal guide to
good books &
periodicals



www.SirReadaLot.org

info@SirReadaLot.org

762 Martin Luther King Jr Blvd

Suite 500

Chapel Hill, NC 27514

Tel: 919-968-9342

Fax: 919-968-2557

April 9, 2007

Tear Sheet Cover

PUBLICITY

J. DAVID SPURLOCK

VANGUARD PRODUCTIONS

390 CAMPUS DR

SOMERSET, NJ 08873

Enclosed are two copies of a review of one of your publications, published at this URL:

<http://www.sirreadalot.org/issues/backissues/0098.htm> – May Issue

SirReadaLot.org describes at our Website many new books of general and academic interest in the humanities, philosophy, religion, art and science. Our "hit rate" averages 8-9,000 per day. We announce our reviews electronically to subscribers. We distribute some of our reviews to special interest newsgroups and all are available at our public website.

We would appreciate your notifying us of your new titles and adding us to your mailing list.

Thank you,

Savvy

Savannah ("Savvy") Jones

Review Editor

919-929-2249

sjones@sirreadalot.org

FROM :

FAX NO. :

Dec. 18 2007 07:23PM P2

Reviews 4.2.07

Science Fiction & Fantasy / Mysteries & Thrillers

Quantico by Greg Bear (Vanguard Press)

From multiple award winning and bestselling author Greg Bear comes a near-future thriller, Quantico, that pits young FBI agents against a brilliant homegrown terrorist. It's the second decade of the twenty-first century, and terrorism has escalated almost beyond control. The Dome of the Rock in Jerusalem has been blown to bits by extremists, and, in retaliation, thousands have died in another major attack on the United States. New weapons are being spawned in remote basement labs, and no one feels safe.

In North America, the FBI uses cutting edge technology to thwart domestic terrorists. Sat-linked engine blockers stop drug-traffickers cold. Devices the size of Magic Markers test for biohazards on the spot. 3-D projectors reconstruct crime scenes from hours-old evidence, and sophisticated bomb suits protect against all but the most savage forces.

Despite all this, the War on Terror has reached a deadly stalemate.

The FBI in Quantico has now been dispatched to deal with a new menace. A plague targeted to ethnic groups – Jews or Muslims or both – has the potential to wipe out entire populations. But the FBI itself is under political assault. There's a good chance agents William Griffin, Fouad Al-Husam, and Jane Rowland will be part of the last class at Quantico. As the young agents hunt a brilliant homegrown terrorist, they join forces with veteran bio-terror expert Rebecca Rose. But the plot they uncover – and the man they chase – prove to be far more complex than anyone expects.

One of the best thrillers I've ever read – a superb cautionary tale about the use of political and military power that confronts us in the world today – Joe Haldeman, bestselling author of The Forever War

... Bear's near-future science is, as always, eerily plausible, and while he doesn't stint on sharp criticism of political infighting and its potential to hinder antiterrorism efforts, his would-be terrorists become surprisingly sympathetic as the complex details of their true plan are slowly (sometimes too slowly) revealed. – Publishers Weekly

Quantico is a terrifying glimpse into the nightmare of global bio-terror. Greg Bear combines real-world science, headline news, and five-minutes-from-now extrapolation into an adrenaline-amped thriller that will scare the hell out of you. – Robert Crais, bestselling author of The Watchman

In Quantico, Greg Bear turns his incredibly detailed scientific mind onto the world of terrorists, both domestic and foreign. The novel is brilliant, imaginative and yet completely terrifying in its reality: You wish you could stop reading, but you can't. – Ken Nolan, screenwriter for Black Hawk Down and The Company

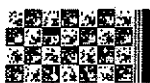
Quantico is a chilling thriller; written by two-time Hugo and five-time Nebula winner, advisor on scientific action committees, it is not only totally believable but haunting terrifying. Recommended for those who want a fright that stays with you.

Quantico is a book club selection of Book-of-the-Month, Science Fiction, Military, Mystery Guild, American Compass, and Quality Paperback.

Exhibit M

BOOK EXPO AMERICA 2007

**DAVID SPURLOCK
VANGUARD PRESS
NEW YORK CITY, NY**



EXHIBITOR

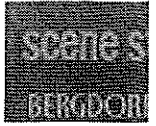
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New York Magazine

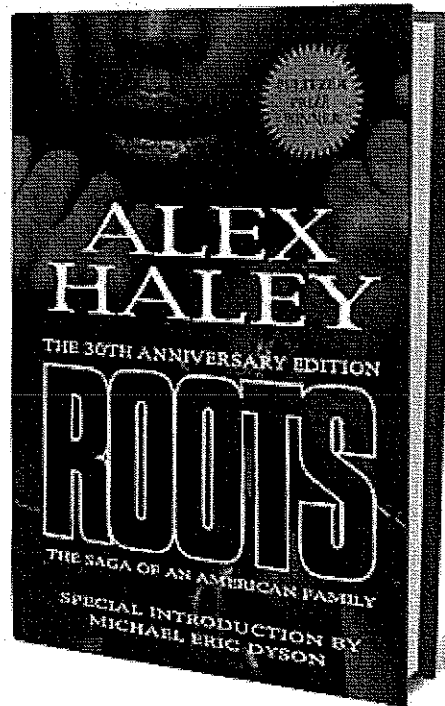


6/8/07

News Reel

1:08 pm

'Roots' Anniversary Edition Plagiarizing ... Again?



Alex

Photo: Corbis (Haley); Vanguard Press (Book)

Haley's best seller, *Roots*, is stirring up trouble again. Perseus Books, which owns such high-toned imprints as John and Teresa Heinz Kerry's publisher PublicAffairs, has made no effort to expunge or identify plagiarized passages in its imprint Vanguard Press's 30th-anniversary edition of the book. From the "Publisher's Statement": "Haley was sued for plagiarism when it was discovered that several dozen paragraphs in *Roots* were taken directly from a novel, *The African*, by Harold Courlander, who ultimately received a substantial settlement" (\$650,000). When asked why the purloined passages were not identified or footnoted, the book's publicist said that "the issue of plagiarism" was mentioned elsewhere in the edition but declined to say why its instances were not pointed out. According to an expert's testimony for the plaintiff at the 1978 copyright trial, Haley took the character of his alleged African

forebear, Kunta Kinte, as well as key parts of Kunta's plotline, directly from Courland's book. No expert testified for Haley. Penn professor Michael Eric Dyson, who wrote the introduction to the anniversary edition, contends that "no flaw or shortcoming in Haley's tome could dim the brilliant light he shed on the black soul." —*Philip Nobile*

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Grogan Dogs Vanguard's Book of His Columns

by Rachel Deahl, PW Daily -- Publishers Weekly, 6/8/2007

John Grogan does not want you to buy or read the forthcoming collection of his newspaper columns from Vanguard Press, *Bad Dogs Have More Fun*. The *Marley & Me* author is so unhappy about the book's publication that his agent has sent a letter to the publishing community distancing him from the project.

The September title, which pulls together pieces Grogan wrote at the *Philadelphia Inquirer*—the subtitle is *Selected Writings on Animals, Family and Life by John Grogan for the Philadelphia Inquirer*—came together without the author's approval or involvement. As such, Grogan's agent, Laurie Abkemeier of DeFiore and Company, today sent a letter to sales reps at Grogan's current publisher, HarperCollins, expressing Grogan's displeasure and explaining he will not be promoting or supporting the title in any way.

The publishing backstory is that Vanguard struck a deal for the book directly with the *Inquirer*, which owns the rights to the columns, and Grogan was not given any advance notice. Abkemeier got wind of the book after Vanguard publisher Roger Cooper and the *Inquirer* had signed papers on a Friday—the deal came together in April around the time of the London Book Fair—but Grogan didn't get the official word about the deal until the following Monday, when he received a letter from the paper's publisher, Brian Tierney.

"I was totally blindsided by it," Grogan said. "It just seems like common courtesy, and basic professional behavior, to at least give the writer a phone call to say, 'We're thinking of doing this.'" Grogan also believes the book, which features an image of a puppy on the cover, is shamefully trying to piggyback on the success of his smash bestseller. "This has nothing to do with wanting to publish my columns and everything to do with [Vanguard and the *Inquirer*] getting a piece of this very large audience I have with *Marley & Me*," said Grogan, who was at BookExpo last weekend promoting his recently released children's adaptations from HarperCollins, *Bad Dog Marley* and *Marley: A Dog Like No Other*.

Cooper and *Inquirer* publisher Brian Tierney, who both spoke to PW before news of Abkemeier's letter surfaced, said that what's happened is simply a case of miscommunication and, furthermore, Grogan's input is still wanted and welcome. As Cooper pointed out, Tierney's letter, which he explained "unfortunately got to John after he had already heard about the book project," offers Grogan a cut of the profits in exchange for his cooperation in promotional efforts. Cooper added that the paper "continually tried to reach out to Grogan," as did he, and that both parties still "want to involve him."

But Grogan feels it's all too little too late. And his letter, which Abkemeier addressed to "bookstore

accounts" and e-mailed to HarperCollins to be disseminated among the house's sales force and account reps, is intended to let booksellers know that the Vanguard title is not a John Grogan book. "We don't want accounts to go in thinking this is like any other book John has done," Abkemeier said over the phone. "It's going to be a very different kind of sale without his promotion."

In the letter, which is signed by Abkemeier, she says the deal for the book was struck without Grogan's knowledge; it adds that Grogan is "deeply distressed" by the actions of both Vanguard and the *Inquirer*. Detailing that Grogan will not "grant interviews, approve the use of photos, or make appearances" to promote the book, the letter says Grogan was offered a chance to blurb the title "only under the condition that he would not have approval over the content and packaging."

Cooper told *PW* that the *Inquirer* "continually tried to arrange a meeting with John" and that he, also, sent Grogan a letter as recently as this week. In it, Cooper says he understands Grogan is "uncomfortable with the publication," but that Cooper is "excited" to bring the work to a potentially wider audience and "hoped that you would be enthusiastic about the opportunity." Cooper closes the letter by saying he hopes Grogan will reconsider having "an open conversation about the project."

Tierney, who reiterated his continued interest in having Grogan on board, said the letter's late arrival was regrettable. Nonetheless, the newspaper executive, recently rumored to be interested in buying Dow Jones, isn't overly concerned about Grogan's feelings. "This is a \$500- million company... and, while we're excited about this book, it's not as if it's going to be a significant revenue stream."

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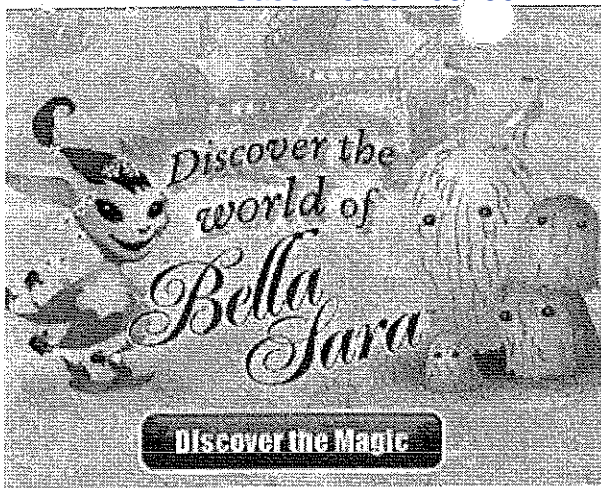
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